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9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION

13 UNITED STATES OF AMERICA,) No. CR 05-00530 RMW

14 Plaintiff,) STIPULATION AND [PROPOSED]
15 v.) ORDER EXCLUDING TIME

16 RICARDO AYAR-AVALOS,) SAN JOSE VENUE
17 Defendant.)

20 On August 18, 2005, the parties in this case appeared before the Court for an arraignment.

21 After the defendant was arraigned on the indictment, Assistant Federal Public Defender Nicholas
22 Humy explained to the Court that the government is in the process of obtaining the defendant's
23 criminal history and that he needs to review the report before he can properly advise the
24 defendant. Therefore, the parties requested that an initial appearance before the Honorable Judge
25 Whyte be scheduled for September 26, 2005 at 9:00 a.m. In addition, the defendant, through his
26 counsel, agreed to an exclusion of time under the Speedy Trial Act from August 18, 2005 to
27 September 26, 2005. The parties agree and stipulate that an exclusion of time is appropriate
28 based on the defendant's need for effective preparation of counsel.

Aug-19-05 11:08am From

T-507 P.03/03

F-094

1 SO STIPULATED:

2 KEVIN V. RYAN
United States Attorney3 DATED: 8/23/054 SUSAN KNIGHT
Assistant United States Attorney5 DATED: 8/19/056 NICHOLAS P. HUMY
Assistant Federal Public Defender7 Accordingly, the Court HEREBY ORDERS that an initial appearance be scheduled for
8 September 26, 2005 at 9:00 a.m. before the Honorable Judge Whyte.9 For good cause shown, the Court FURTHER ORDERS that time be excluded under the
10 Speedy Trial Act from August 18, 2005 to September 26, 2005. The Court finds, based on the
11 aforementioned reasons, that the ends of justice served by granting the requested continuance
12 outweigh the best interest of the public and the defendant in a speedy trial. The failure to grant
13 the requested continuance would deny defense counsel reasonable time necessary for effective
14 preparation, taking into account the exercise of due diligence, and would result in a miscarriage
15 of justice. The Court therefore concludes that this exclusion of time should be made under 18
16 U.S.C. §§ 3161(h)(8)(A) and (B)(iv).

17 SO ORDERED.

18 DATED: 8/24/0519
20 PATRICIA V. TRUMBULL
United States Magistrate Judge